UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,557	06/29/2001	Andrew V. Anderson	42390.P9765X	6490

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EXAMINER
CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/895,557	ANDERSON ET AL.
	Examiner	Art Unit
	DOHM CHANKONG	2452

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *18 February 2009*.
2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-33 and 36-39* is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-33 and 36-39* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
       1. ☐ Certified copies of the priority documents have been received.
       2. ☐ Certified copies of the priority documents have been received in Application No. _____.
       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This action is in response to Applicant's arguments filed on 2/18/2009. No claims are

amended. Claims 34 and 35 were previously canceled. Accordingly, claims 1-33 and 36-39 are

presented for further examination.

2.   This action is a final rejection.

Response to Arguments

3.   The rejection relied on Scheuring to reject Applicant's limitation with respect to a digital

assistant acting on its own to directly resolve an event on the user's behalf by taking action

beyond generating an automated response to the information provide that originated the event

and without having to contact the user or any other people to handle the event. As Applicant

notes, the rejection is only valid if Scheuring's provisional application properly supports the

subject matter relied on to reject that limitation. Applicant argues that Scheuring's provisional

application fails to provide this support.

       Specifically, Applicant notes that the provisional discloses that the "system can accept

invitations to events for user (if pref is not set requiring user's acceptance)" (emphasis removed).

Without analysis, Applicant simply concludes that this citation is not the same as the disclosure

relied upon in Scheuring's non-provisional application. However, this teaching sufficiently

supports the relied-upon subject matter.

       The rejection relied on figure 3 of Scheuring's non-provisional application which

displays a flow chart for determining whether to accept or decline an invite. The system receives

an invite and determines whether the system has been enabled to "automatically accept/decline."

This teaching is supported by the provisional application which states determining whether the

preference has been set requiring a user's acceptance.

Further according to figure 3, if the system is enabled to automatically accept or decline,

the system proceeds to do so. This also is supported by the provisional application which states

that the system can accept invitations to events for the user. The process of accepting the invite

reads on Applicant's claimed limitation of resolving the event on the user's behalf. Because the

user is not involved in the decision, Scheuring's assistant is "acting on its own" as claimed.

Furthermore, the examiner notes additional portions of Scheuring's non-provisional

application, that are properly supported by the provisional application, that also reads on the

claimed limitation. Scheuring discloses automatically making reservations for a user at a

restaurant in response to detecting the event in the calendar [0034, 0037] and automatically

scheduling a future call with a caller if the user is busy [Fig. 4]. Automatically making

reservations and automatically scheduling a future call with a caller also read on the limitation of

resolving the event on the user's behalf.

Both of these features are found and supported by the provisional application. For

example, page 49 of the provisional discloses the digital assistant automatically calling a

restaurant to schedule a reservation. And page 47 of the provisional discloses the digital

assistant automatically scheduling another meeting with the caller without the user's

intervention.

4.   For the foregoing reasons, Applicant's argument is not found persuasive. Scheuring's

provisional application properly supports the subject matter relied upon to reject Applicant's

limitation. Therefore, the rejection as set forth in the previous action are maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claims 1-6, 8-10, 11-16, 18-25, 27-29, 31-33, 36 and 38 are rejected under 35 U.S.C §

103(a) as being unpatentable over Horvitz et al, U.S Patent Publication No. 2003|0046421

["Horvitz"], in view of Horvitz, U.S Patent Publication No. 2002|0087649 ["Horvitz '649"], in

further view of Alexander et al, U.S. Patent No. 6.640.230 ["Alexander"] and Scheuring et al,

U.S. Patent Publication No. 2002|0131565 ["Scheuring"].

6.   Alexander and Scheuring were cited in the PTO-892 filed on 3.20.2007.

7.   It is noted that the instant application has a filing date of June 29, 2001 and is a

continuation-in-part of application of 09/865,919 ["'919 application"], which has a filing date of

May 24, 2001. Horvitz '649 has a filing date of June 14, 2001 and is relied upon to teach the

newly amended limitations of calculating geographic coverage and network limitations. These

features which are described in the instant application's specification are not described or even

mentioned in Applicant's '919 application. Thus, these features are not entitled to the May

priority date and Horvitz '649 is prior art at least to these features.

8.   Regarding claims 1, 11, 21, 27, and 31-32, Horvitz discloses a method, a computer

readable medium comprising instruction and a digital assistant, e.g., computing device

("system", hereinafter), comprising, steps, means and executable instructions for:

       providing a digital assistant having an event detector and an agent selector [*Figure 3* |

0075, 0076];

       receiving by the event detector the information of an event from an information provider

[*Figure 1* | *Fig. 27* where : Horvitz's message controls receives information that a message has

arrived for user (event)];

       determining by the event detector the level of importance of the event relative to a user of

the digital assistant [*0009, 0011, 0014-15, 0065, 0076, 0113* where : each arriving message is

given a priority (level of importance)];

       weighing by the agent selector the level of importance of contacting the user of the digital

assistant against an amount of intrusion to the user if the digital assistant takes an action to

resolve the event itself, wherein the level of importance of the event and the intrusion to the user

is determined by rules specified by user preferences in profile information defined by the user

[*Figures 8-26* | *0108, 0275* | *0011, 0015, 0068* : see response to arguments above];

       resolving by the digital assistant the event without contacting the user if the level of

importance of the event is greater than or equal to a first threshold and less than or equal to a

second threshold [*Fig. 23-26* | *0017, 0074-75, 0083, 0108, 0275* where : user is not contacted if the message priority is not high enough to disturb the user (if he is in a critical, or more important, meeting)];

the agent selector searching the user preferences in profile information for an indication of a preferred mechanism to contact the user in order for the user to resolve the event if the level of importance is greater than the second threshold [*0083, 0107*].

Horvitz fails to expressly disclose two claimed features:

> i.   the resolving of the event including using profile information of the user of the digital assistant, rules set by the user, technological obstacles, geographical obstacles, and any other previously attempted contacts to act on its own to directly resolve the event on the user's behalf by taking action beyond generating an automated response to the information provider that originated the event and without having to contact the user or any other people to handle the event; and
>
> ii.   that the agent selector calculates geographic coverage and network limitations for determining a preferred mechanism to contact the user.

As to the first missing feature, using profile information of the user of the digital assistant, rules set by the user, technological obstacles, geographical obstacles, and any other previously attempted contacts to act on its own to directly resolve the event on the user's behalf by taking action beyond generating an automated response to the information provider that originated the event and without having to contact the user or any other people to handle the event was a well known feature in the art as evidenced by Alexander and Scheuring.

Alexander discloses a digital assistant that resolves events using profile information of
the user as well as rules, technological obstacles, geographical obstacles [*Figure 10 «item 1090»*
| *Figure 11* | *column 7 «line 57» to column 8 «line 16»* : using the user's calendar, rules, user's
capabilities, "where a user happens to be" and "what devices the user has access to" to resolve
the event | *column 9 «lines 12-15»*]. But Alexander does not disclose that the digital assistant
acts on its own to directly resolve the event on the user's behalf by taking action beyond
generating an automated response to the information provider that originated the event and
without having to contact the user or any other people. However, in the same field of invention
as Horvitz and Alexander, Scheuring discloses a digital assistant that acts on its own to directly
resolve the event on the user's behalf by taking action beyond generating an automated response
to the information provider that originated the event and without having to contact the user or
any other people [*Fig. 3 «items 310, 320, 350, 380»*: disclosing that the event (receiving an
invitation) is resolved by either automatically accepting or declining the invitation to the meeting
| *0074*: "without the user's intervention"].

It would have been obvious to one of ordinary skill in the art to have modified Horvitz's
notification system to include Alexander's functionality for using profile information, rules,
technological and geographical obstacles to determine the availability of a user in order to
resolve an event. It would have been further obvious to one of ordinary skill in the art to have
modified Horvitz and Alexander's system to include the independent digital assistant that acts on
its own to resolve events as taught by Scheuring. All three references are directed towards a
calendar and scheduling system [*Horvitz,* 0012 | *Alexander*, abstract | Scheuring, abstract]. Thus,
modifying Horvitz with Alexander and Scheuring's features is simply an example of applying a

known technique (Alexander's use of profiles, rules, and obstacles and Scheuring's independent

digital assistant) to improve a similar system (Horvitz's calendaring system) in the same way

(Alexander discloses that his feature allows calendar systems to better respond to incoming

events, column 2 «line 63» to column 3 «line 4» | Scheuring discloses that his feature enables

calendar systems to make better decisions based on user preferences, 0003). See MPEP §2143.

As to the second missing feature, calculating geographic coverage and network

limitations was well known in the art at the time of Applicant's invention. Horvitz '649 discloses

calculating geographic coverage and network limitations for determining a preferred mechanism

to contact the user [0339 : where Horvitz '649 discloses looking at certain contextual attributes

such as a user's location and whether the location receives intermittent coverage to determine

whether to contact the user]. It would have been obvious to one of ordinary skill in the art to

have modified Horvitz with Horvitz '649's teachings of using geographic coverage and network

limitations such as transmission reliability to determine how to contact a user. Such a feature

improves Horvitz's notification system because it provides additional reliability that the

notification will be received by the user.

9.   Regarding claims 2 and 12, Horvitz discloses the invention substantially, as described in

claims 1 and 11, but fails to include the teaching of determining importance level by comparing

subject of message with a list of subject. However this feature was well known in the art at the

time of Applicant's invention as evidenced by Scheuring. Scheuring discloses determining the

level of importance of the event by comparing the subject of the event to a list of subjects of

interest to the user [*0010, 0019*: events are prioritized based on the subject such as travel time,

distractions, meetings]. It would have been obvious to one of ordinary skill in the art to have modified Horvitz to include the comparison feature as taught by Scheuring. Such a modification is merely an example of applying a known technique (Scheuring's comparison feature) to improve a similar system (Horvitz's calendaring system) in the same way (Scheuring discloses that his feature enables prioritization of events based on subject matter which allows the calendar to act without user intervention, *0060*). See MPEP §2143.

10.   Regarding claims 3, 4, 13, 14, 23, 24, Horvitz discloses referring to information concerning the location of activities in which at least one person is engaged provided by a calendar [*0075, 0076*].

11.   Regarding claims 5, 15 and 25, Horvitz discloses, user's activity includes locate user whereabouts [*Fig. 34 | 0262-0264*].

12.   Regarding claims 6 and 16, Horvitz discloses taking into account a limitation on a way of contacting at least one person arising from where said at least one person is located [*0075*].

13.   Regarding claims 8-9, 18-19 and 33, Horvitz discloses the invention substantially, as described in claims 1, 11 and 21, but it is silent on determining importance level includes consideration whether an earlier attempt was made to contact a person or rule permit action to be taken. However, such limitation is a variation of factors, which could be easily specify within scope of Horvitz teaching to perform a desirable task without modifying conceptual design.

Thus, specifying detail factors as claimed, would have been obvious to one of ordinary skilled in the art at the time of the invention was made that was a matter of implementation choice, which an artisan could have used the system as taught by Horvitz to do so.

14.   Regarding claims 10 and 20, Horvitz discloses, referring to information exceptions to those rules [user-profile allow user to exclude message to be delivered, *Horvitz, Fig. 14-16*].

15.   Regarding claims 22 and 28, Horvitz discloses evaluating the effect of the passage of time since a previous attempt to contact at least one person was made on the level of importance of the event [*0075*].

16.   Regarding claim 29, Horvitz discloses referring to information concerning activities in which at least one person is engaged [*0075*].

17.   Regarding claims 36 and 38, Horvitz discloses, using threshold to determine importance level of an event, based on the outcome, decides whether to take further action such as forward message, notifying a person as discussed above. Hence, determining whether opportunity exists for taking action is an inherent feature.

18.   Claims 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz in view of Horvitz '649, Alexander, and Scheuring in further view of what was well known in the art.

19.   Regarding claims 37 and 39, Horvitz discloses the invention substantially, as claimed, as described in claims 21 and 27, including substantially as described in their base claims including, inherently teaches ceasing to take action, since the action taking is dictated by level of threshold. Horvitz does not explicitly disclose the system include logging inaction event. Official notice is taken that logging information were notorious at the time of the invention was made. Thus, to include a well known event logging for record action taken event would have been obvious to one of ordinary skilled in the art, because such inclusion would simplify system's activity analysis.

20.   Claims 7, 17, 26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz in view of Horvitz '649, Alexander, and Scheuring, in further view of Fisher et al (US. 5,835,896).

21.   Regarding claims 7, 17, 26 and 30, Horvitz discloses the invention substantially, as described, in paragraph 7 above, including, referring to information concerning the user's preferences to determine if the user would prefer that action be taken on behalf of the user to respond to the event without contact any person (¶ 10, 70 and 79).

        Despite the fact that Horvitz is silent on a feature of determining a price limitation for any action to be taken, price limitation determination concept is not new; it has been utilized in convention proxy auctioning, in which a proxy bidder, e.g., computer software, is capable of determining price limitation and taking action without contact any person, i.e., bidding,

increasing price, as long as price limitation is below or equal to a predetermined threshold. For

instance, in the same field of endeavor, Fisher discloses an inventive concept as such (*Abstract;*

Col. 1, line 56 - Col. 2, line 67; Col. 12, line 63 - Col. 13, line 25).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the

invention was made to expand a capability of assigning action taking task without contacting any

person to taking action requiring payment, such as automatically bidder as suggested in Fisher, in

order to enhance ability of a person who located remotely from e-commerce or auction site to

progressively interacting with e-commerce or auction process without having to stay in front of

computer or auction terminal, but still maintaining a capability of interacting or auctioning,

which would tremendously convenient for the bidder or the user.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOHM CHANKONG whose telephone number is (571)272-3942. The examiner can normally be reached on Monday-Friday [8:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571.272.3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dohm Chankong/
Primary Examiner, Art Unit 2452